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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,891	08/25/2003	Yukio Hosaka	241903US0	1243

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
WOODWARD, ANA LUCRECIA

ART UNIT	PAPER NUMBER
1711	

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/646,891	HOSAKA ET AL.	
	Examiner	Art Unit	
	Ana L. Woodward	1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 1/19/2006.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 11 and 14-33 is/are pending in the application.

4a) Of the above claim(s) 15-24 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 11, 14 and 25-33 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 15-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 15, 2005.

Claim Rejections - 35 USC § 112

2. Claims 30-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification, as originally filed, fails to provide express support for the exclusion of substances having the "sulfonic acid and phosphoric acid groups". Accordingly, since no support can be found for said subject matter, such is deemed new matter.

3. Claims 11, 14 and 25-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 11 and 14, the metes and bounds of the "polyolefinic resin" are indeterminate in scope. As presently recited, said generic recitation reads on and does not distinguish over the ethylene vinyl acetate copolymer entity.

In claim 14, line 3, the confusing language "to be a water-insoluble matrix" is not understood.

In claim 14, lines 3 and 7, the language "uncrosslinked cross-linkable" appears redundant.

In claim 14, it is unclear as to how the antecedently recited "cross-linkable polymer composition" comprises a "***crosslinked***" polyolefinic resin.

In claim 14, it is unclear as to whether or not the polyolefinic resin which is "uncrosslinked" is also subjected to the crosslinking treatment.

In claim 14, line 8, the language "based on 100% by weight of the material to be the water-soluble matrix" is indefinite and not understood. Do applicants intend "based on 100% by weight of the total of said water-soluble matrix" as per new claim 28?

In claim 26, line 2, the language "uncrosslinked cross-linkable" appears redundant.

In claim 27, the language "to be the water-soluble matrix" is indefinite and not understood. Do applicants intend "based on 100% by weight of the total of said water-soluble matrix" as per new claim 28?

In claim 27, it is unclear if or how the recited contents relate to the embodiment comprising ***crosslinked*** polyolefinic resin.

In claim 30, line 2, "function' as opposed to "functional" is queried.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 11, 14 and 25-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,645,264 (Hasegawa et al) as per reasons of record.

Hasegawa et al disclose a composition comprising A) a crosslinkable elastomer having no functional groups, embracing the presently claimed water-soluble matrix materials, B) a water-insoluble substance having functional groups, either reading on the presently claimed polyolefinic resin or not precluded from the present claims, and C) a water-soluble particulate substance, reading on the presently claimed water-soluble particles. In one embodiment, the matrix comprises the crosslinkable elastomer component A) and water-insoluble substance B) is dispersed therein and in another embodiment component B) also forms part of the matrix (column 5, lines 58-61). Suitable crosslinkable elastomers include ethylene vinyl acetate copolymer, reading on the presently claimed ethylene vinyl acetate copolymer, as well as other polymers based on olefinically unsaturated monomers, e.g., ethylene-propylene rubber, reading on the presently claimed polyolefinic resin. It is within the scope of the reference to use these crosslinkable elastomers in combination of two or more (column 3, lines 11-19).

It is maintained that it would have been obvious to one having ordinary skill in the art to have arrived at the present invention by having used i) an ethylene vinyl acetate copolymer as component A) in combination with one of the olefinically unsaturated polymers having a functional group as component B) or ii) an ethylene vinyl acetate copolymer in combination with another polymer based on olefinically-unsaturated monomers for their expected additive effect as component A). This is because the reference clearly teaches that the crosslinkable elastomers can be used in combination of two or more. It is prima facie obvious to combine two materials each of which is taught by the prior art to be useful for the same purpose in order to form a third

composition which is to be used for the very same purpose. The idea of combining them flows logically from their having been individually taught in the prior art. Accordingly, absent evidence of unusual or unexpected results, no patentability can be seen in the presently claimed subject matter.

Response to Arguments

6. Applicant's arguments filed January 19, 2006 have been fully considered but they are not persuasive.

It is maintained that it would have been obvious to one having ordinary skill in the art to have used either i) an ethylene vinyl acetate copolymer as component A) in combination with one of the olefinically unsaturated polymers having a functional group as component B) or ii) an ethylene vinyl acetate copolymer in combination with another polymer based on olefinically-unsaturated monomers for their expected additive effect as component A). This is because the reference clearly teaches that the crosslinkable elastomers can be used in combination of two or more. It is prima facie obvious to combine two materials each of which is taught by the prior art to be useful for the same purpose in order to form a third composition which is to be used for the very same purpose. The idea of combining them flows logically from their having been individually taught in the prior art. Accordingly, absent evidence of unusual or unexpected results, no patentability can be seen in the presently claimed subject matter.

In response to applicants' argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the absence of a water-insoluble substance having functional groups) are not recited in the majority of the rejected claim(s). As presently recited, "polyolefinic resin" is generic to modified and

unmodified polyolefins and, as such, does not distinguish over the water-insoluble polymers having functional groups defining patentees' component B). As to claims 30 and 31, said claims preclude a water-insoluble substance having functional groups from ***only the matrix*** component and not the entire composition. Said claims would, therefore, be met by the embodiment of the reference wherein the water-insoluble substance B) constitutes a dispersed phase and not the matrix component.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana L. Woodward whose telephone number is (571) 272-1082. The examiner can normally be reached on Monday-Friday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ana L. Woodward
Primary Examiner
Art Unit 1711

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